

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE**

KELLY BUTLER, on his own behalf and as the natural parent and next friend of his minor children, H.B. and P.B.; JASON CARR and SHARONA CARR, on their own behalf and as the natural parents and next friends of their minor children, L.C. and D.C.,

Plaintiffs,

v.

SMITH COUNTY BOARD OF EDUCATION; BARRY H. SMITH, in his official capacity as Director of Schools of the Smith County School System; KELLY BELL, in her official capacity as Principal of Smith County Middle School; and DUSTY WHITAKER, in his official capacity as Principal of Smith County High School,

Defendants.

Civil No.: 2:19-cv-00091

Judge: Waverly D. Crenshaw, Jr.

Magistrate Judge:

PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION

For the reasons set forth in the accompanying memorandum, Plaintiffs move this Court, pursuant to Fed. R. Civ. P. 65(a), for a preliminary injunction restraining, enjoining, and/or prohibiting Defendants—Smith County Board of Education, Barry H. Smith, Kelly Bell, and Dusty Whitaker, and their officers, agents, affiliates, subsidiaries, servants, employees, successors, and all other persons or entities in active concert or privity or participation with them, at Smith County Middle School, Smith County High School, and all schools within the Smith County School System—from (1) participating in, organizing, promoting, advancing, aiding, endorsing, or causing prayer, religious devotionals, or proselytizing during class and school-sponsored events;

(2) encouraging students to participate in religious events and activities, or otherwise promoting religious events and activities; (3) displaying religious messages and holy texts in a manner that (a) does not have a non-religious, educational, pedagogical, and curriculum-related purpose, or (b) conveys official approval of any religious message or the content of any holy text; (4) teaching biblical doctrine as fact or otherwise endorsing, promoting, or seeking to bolster biblical doctrine; (5) conveying messages endorsing religion; (6) otherwise unconstitutionally endorsing religion or religiously coercing students or parents; and (7) retaliating against Plaintiffs or their family members for objecting to Defendants' unlawful practices and bringing this action.

Plaintiffs seek this Order pending disposition of their claim that Defendants' customs, policies, and practices violate the Establishment Clause of the First Amendment to the U.S. Constitution, made applicable to the states through the Fourteenth Amendment.

In support of their motion, Plaintiffs submit the attached Memorandum in Support of Plaintiffs' Motion for Preliminary Injunction, the signed declarations of Plaintiffs Kelly Butler and Sharona Carr, minor Plaintiffs H.B., P.B., L.C., and D.C.,¹ and counsel, Heather L. Weaver, and accompanying exhibits to the declarations. Plaintiffs also submit a Proposed Order in support of their motion.

Respectfully submitted,

/s/ *Thomas Castelli*
THOMAS CASTELLI (BPR#024849)
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212
Telephone: (615) 320-7142
tcastelli@aclu-tn.org

¹ Per the Middle District of Tennessee User Manual, Version 6.2.3, Chapter 3, Section V(B) and the Amended Practices and Procedures for Electronic Case Filing, dated Aug. 21, 2015, Section 5,10(b), all pleadings refer to the minor Plaintiffs by their initials.

Daniel Mach (D.C. Bar No.: 461652),
Motion for Pro Hac Vice Admission Pending
Heather L. Weaver (D.C. Bar No.: 495582),
Motion for Pro Hac Vice Admission Pending
American Civil Liberties Union Foundation
915 15th Street, NW
Washington, DC 20005
Tel: (202) 675-2330
dmach@aclu.org
hweaver@aclu.org

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing has been served on the following parties by certified mail contemporaneously with the Summons and Complaint on the 20th day of November 2019.

Smith County Board of Education
c/o Barry H. Smith, Director of Schools
Smith County Schools
126 S C M S Lane
Carthage, TN 37030

Barry H. Smith, Director of Schools
Smith County Schools
126 S C M S Lane
Carthage, TN 37030

Kelly Bell, Principal
Smith County Middle School
134 SCMS Lane
Carthage, TN 37030

Dusty Whitaker, Principal
Smith County High School
312 Fite Avenue E
Carthage, TN 37030

/s/ Thomas H. Castelli
Thomas H. Castelli (BPR#024849)
ACLU Foundation of Tennessee
P.O. Box 120160
Nashville, TN 37212
Tel: (615) 320-7142
tcastelli@aclu-tn.org